

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

VICTOR RUIZ,

Plaintiff

v.

KENDALL, et al.,

Defendants.

Case No. 3:23-cv-00283-MMD-CSD

ORDER

(ECF No. 1)

On June 12, 2023, pro se plaintiff Victor Ruiz, an inmate at Elko County Detention Center, submitted a complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). Upon review, the Court notes that Plaintiff did not sign the complaint. And the application to proceed *in forma pauperis* is incomplete because **Plaintiff did not submit a financial certificate and an inmate trust fund account statement for the previous six-month period with the application**. For the reasons stated below, the Court denies the application to proceed *in forma pauperis* without prejudice and grants Plaintiff leave to file a signed amended complaint and either pay the required filing fee or file a new fully complete application to proceed *in forma pauperis*.

I. DISCUSSION**A. Plaintiff must file a signed amended complaint.**

“A civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. A plaintiff who is not represented by counsel must personally sign his or her complaint. *Id.* at 11(a). The Court cannot consider the complaint that Plaintiff submitted because Plaintiff did not sign it. (See ECF No. 1-1). The Court grants Plaintiff a **one-time extension** to submit a signed amended complaint to the Court.

B. Plaintiff must properly apply for pauper status or pay the full filing fee.

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. *See id.*

at § 1914(b). “Any person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed *in forma pauperis*.” Nev. Loc. R. Prac. LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the following documents to the Court: (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, which is pages 1–3 of the Court’s approved form, that is properly signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is page 4 of the Court’s approved form, that is properly signed by both the inmate and a prison or jail official; and (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev. Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her obligation to pay the filing fee, it just means that the inmate can pay the fee in installments. See 28 U.S.C. § 1915(b).

The Court denies the application to proceed *in forma pauperis* without prejudice because it is incomplete as Plaintiff did not file both required financial documents with the application. And the Court grants Plaintiff an extension of time to file a new fully complete application to proceed *in forma pauperis* or pay the required filing fee.

II. CONCLUSION

It is therefore ordered that the application to proceed *in forma pauperis* (ECF No. 1) is denied without prejudice.

It is further ordered that Plaintiff has **until September 11, 2023**, to either pay the full \$402 filing fee or file a new fully complete application to proceed *in forma pauperis* with all three required documents: (1) a completed application with the inmate’s two signatures on page 3, (2) a completed financial certificate that is signed both by the inmate and the prison or jail official, and (3) a copy of the inmate’s trust fund account statement for the previous six-month period.

It is further ordered that Plaintiff has **until September 11, 2023**, to file a signed amended complaint. If Plaintiff chooses to file an amended complaint, Plaintiff is advised that an amended complaint replaces the original complaint, so the amended complaint

1 must be complete in itself. See *Hal Roach Studios, Inc. v. Richard Feiner & Co., Inc.*, 896
2 F.2d 1542, 1546 (9th Cir. 1989). This means the amended complaint must contain all
3 claims, defendants, and factual allegations that Plaintiff wishes to pursue in this action.
4 Thus, a mere signature page will not be sufficient. Plaintiff should file the amended
5 complaint on this Court's approved prisoner civil rights form, and it must be titled "First
6 Amended Complaint."

7 It is further ordered that this action will be subject to dismissal without prejudice if
8 Plaintiff fails to timely comply with this order. A dismissal without prejudice allows Plaintiff
9 to refile the case with the Court, under a new case number, when Plaintiff can file a signed
10 complaint and either file a complete application to proceed *in forma pauperis* or pay the
11 required filing fee.

12 The Clerk of the Court is directed to send Plaintiff Victor Ruiz the approved form
13 for filing a § 1983 complaint and instructions for the same, the approved form application
14 to proceed *in forma pauperis* for an inmate and instructions for the same, and a copy of
15 the original complaint (ECF No. 1-1).

16 DATED THIS 13th day of July 2023.

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20 UNITED STATES MAGISTRATE JUDGE